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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,118

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Donald R. Moody

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EXAMINER

DREIDAME, HUNTER M

ART UNIT

PAPER NUMBER

3633

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DELIVERY MODE

05/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,118	<b>Applicant(s)</b> MOODY, DONALD R.	
	<b>Examiner</b> HUNTER M. DREIDAME	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-8 and 10-33 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,7 and 11-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,8,10,32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 14 April 2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

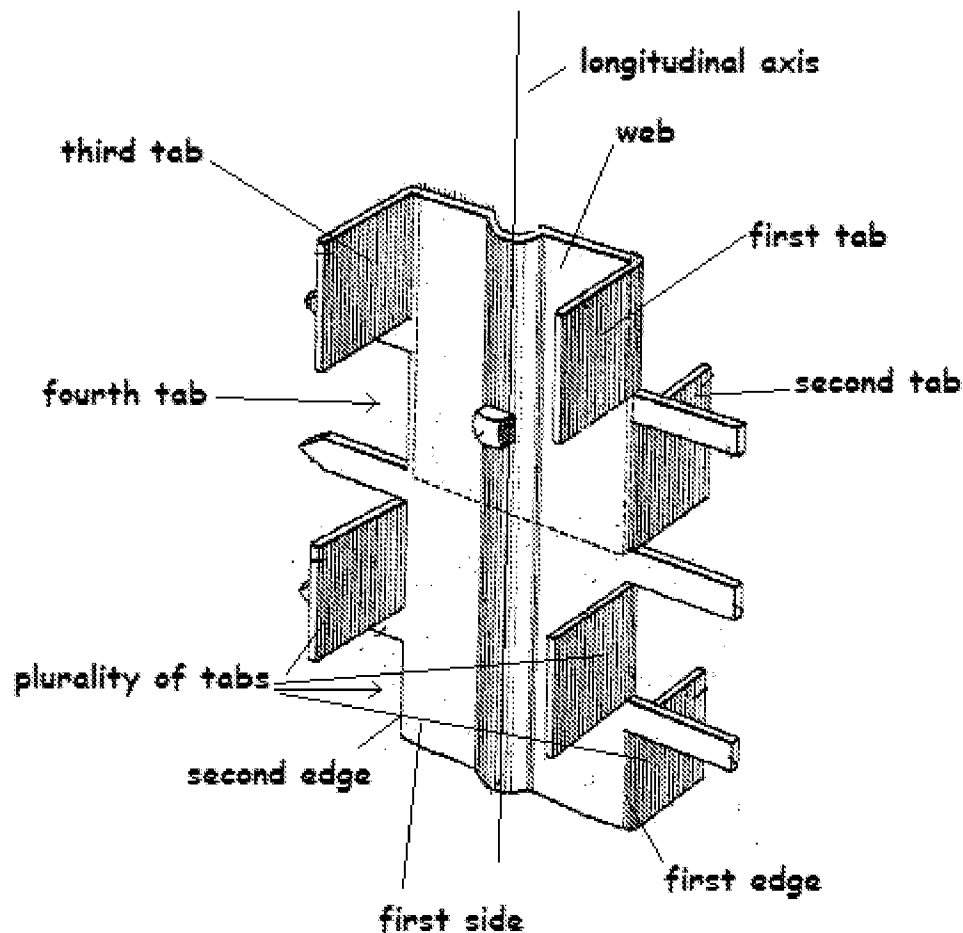
### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3, 6, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by 1,074,242 to Caldwell.**



Annotated figure taken from Caldwell, Fig. 1

**As to claim 1**, Caldwell discloses a thermal framing component (see annotated figure) comprising an elongated planar web (see annotated figure) including a longitudinal axis (see annotated figure), a first edge (see annotated figure) parallel to the longitudinal axis, a second edge (see annotated figure) parallel to the longitudinal axis, a first side (see annotated figure), and a second side (opposite first side); a first tab (see annotated figure) extending from the first edge at approximately a 90 degree angle from the first side; a second tab (see annotated figure) extending from the first

edge at a approximately a 90 degree angle from the second side; and a third tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the second side, wherein the third tab is in longitudinal registration with the first tab (shown in annotated figure).

**As to claim 3**, Caldwell discloses the framing component of claim 1, wherein the second tab is longitudinally adjacent to the first tab (shown in annotated figure).

**As to claim 6**, Caldwell discloses the thermal framing component of claim 1, further comprising a fourth tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the first side.

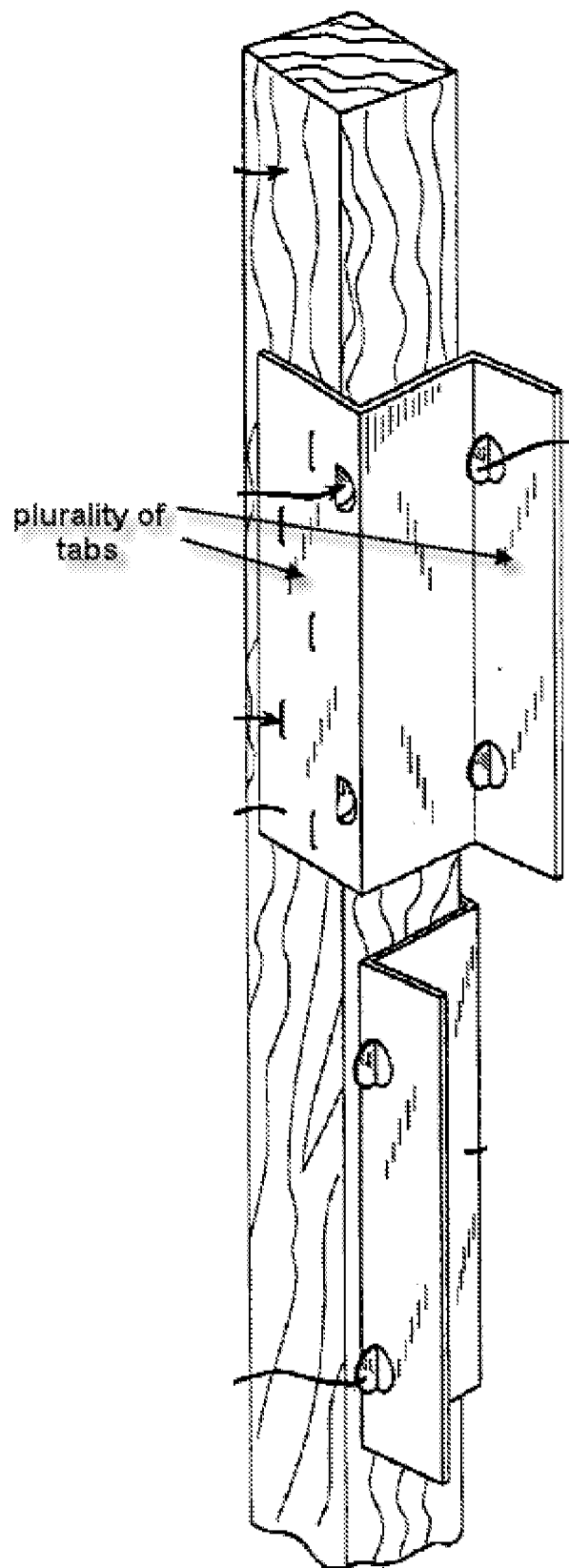
**As to claim 8**, Caldwell discloses the thermal framing component of claim 1, further comprising a plurality of tabs (see annotated figure) extending from the first edge in alternating position between a 90 degree angle from the first side and a 90 degree angle from the second side; and a plurality of tabs extending from the second edge in alternating position between a 90 degree angle from the first side and a 90 degree angle from the second side, wherein the tabs extending from the first edge at a 90 degree angle from the first side are in longitudinal registration with the tabs extending from the second edge at a 90 degree angle from the second side, and wherein the tabs extending from the first edge at a 90 degree angle from the second side are in longitudinal registration with the tabs extending from the second edge at a 90 degree angle from the first side (shown in annotated figure).

**As to claim 10**, Caldwell discloses a thermal framing component (see annotated figure) comprising an elongated planar web (see annotated figure) including a

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longitudinal axis (see annotated figure), a first edge (see annotated figure) parallel to the longitudinal axis, a second edge (see annotated figure) parallel to the longitudinal axis, a first side (see annotated figure), and a second side (opposite first side); a first tab (see annotated figure) extending from the first edge at approximately a 90 degree angle from the first side; a second tab (see annotated figure) extending from the first edge at approximately a 90 degree angle from the second side; and a third tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the second side; and a fourth tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the first side, wherein the first and third tabs are in longitudinal registration (shown in annotated figure) and the second and fourth tabs are in longitudinal registration (shown in annotated figure).

**Claim 32 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,711,867 to Smith.**



Annotated figure taken from Smith, Fig. 9

**As to claim 32**, Smith discloses a construction member (500) comprising an elongated planar web (506, Fig. 9) including a longitudinal axis, a first edge parallel to the longitudinal axis, and a second edge parallel to the longitudinal axis; and a plurality of tabs (see annotated figure) extending from the first and second edge, wherein tabs that extend from the same longitudinal position and from opposite edges form a "Z" shape with the web (shown in annotated figure).

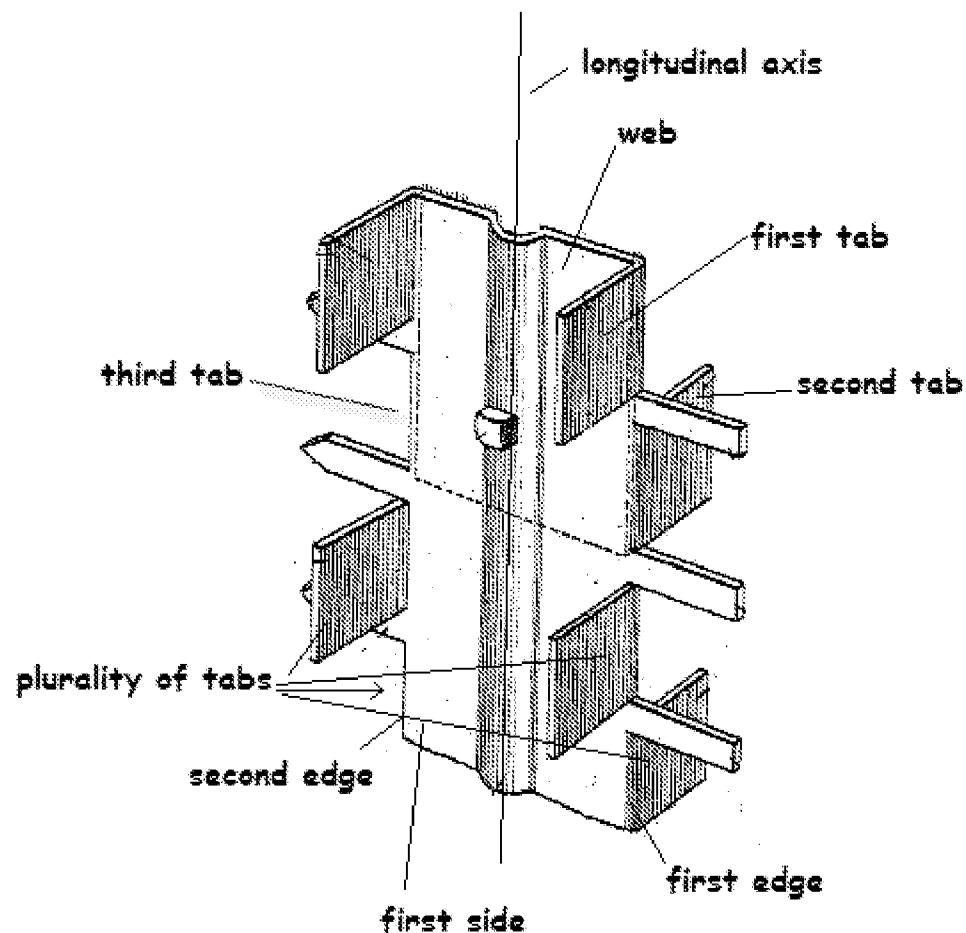
***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,074,242 to Caldwell in view of U.S. Patent 5,269,109 to Gulur.**





Annotated figure taken from Caldwell, Fig. 1

**As to claim 33**, Caldwell discloses a thermal framing system (Fig. 2), comprising a thermal framing component (see annotated figure) comprising an elongated planar web (see annotated figure) including a longitudinal axis (see annotated figure), a first edge (see annotated figure) parallel to the longitudinal axis, a second edge (see annotated figure) parallel to the longitudinal axis, a first side (see annotated figure), and a second side (see annotated figure); a first tab (see annotated figure) extending from the first edge at approximately a 90 degree angle from the first side; a second tab (see

annotated figure) extending from the first edge at approximately a 90 degree angle from the second side; and a third tab extending from the second edge at approximately a 90 degree angle from the second side, wherein the second and third tabs are in longitudinal registration and form a longitudinal insulation slot (see annotated figure).

Caldwell does not disclose a rigid insulation sheet including a sheet edge, wherein the sheet edge is disposed in the insulation slot.

Gulur discloses a thermal framing system (Fig. 4) comprising a thermal framing component (48) and a rigid insulation sheet (52) including a sheet edge, wherein the sheet edge is disposed upon the thermal framing component (shown in Fig. 4).

In view of Gulur, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the thermal framing system of Caldwell with the rigid insulation sheet of Gulur, as it is well known in the art to fit a wall system with an insulation sheet as a means of keeping heat in or out of an environment on either side of the given system.

### ***Response to Arguments***

Applicant's arguments filed 07 February 2008 have been fully considered but they are not persuasive.

Applicant argues the new language added to claim 1 effectively recites the tabs and planar web essentially forming a Z-shaped cross-section. Examiner asserts that, while the claim may read on a component with a Z-shaped cross-section, it may also read on a component having a U-shaped cross-section. Examiner asserts that Applicant has claimed tabs extending from the first and second edges, *not* from the first

and second sides. Therefore, the tabs, so long as they lie in a plane perpendicular to the planar web, are at an angle of 90 degrees from either the first and second side, as the first and second sides are parallel. As such, the U-shaped cross-section disclosed by Caldwell reads on the claims.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNTER M. DREIDAME whose telephone number is (571)272-5177. The examiner can normally be reached on Monday - Friday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hunter M Dreidame/  
Examiner, Art Unit 3633

**/Robert J Canfield/**

**Supervisory Patent Examiner, Art Unit 3635**